

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**INSTRUCTIONS FOR FILING  
NOTICE OF DIVERSION AS AN ALTERNATIVE TO  
INSTREAM STOCKWATER USE**

These instructions have been prepared to assist a right holder to file a Notice of Diversion as an Alternative to Instream Stockwater Use as provided in section 42-113, Idaho Code. Changes authorizing the filing of the notice were enacted during the 1999-2000 legislative session.

Note that the filing of a notice applies only to surface water used for livestock watering purposes where the total use does not exceed thirteen (13,000) gallons per day.

A separate notice accompanied by a \$25 filing fee is required for each point of diversion.

1. Show the name, mailing address and phone number of the right holder.
2. Identify the source of water supply and the major stream to which it is tributary.
- 3a. If the notice is based on an existing recorded instream stockwater right, provide the IDWR water right number. Otherwise, describe the beginning and ending points of the instream stockwater use within the 40-acre tract and/or U.S. Government Lot of the Public Land Survey System.
- 3b. Describe the point of diversion to be used as an alternative to the instream stockwater use. Diversion from springs should be described to the nearest 10 acre tract.
- 4a. Describe the type of diversion. Typical examples include a metal or plastic pipe intake or other enclosed intake.
- 4b. Describe the delivery system. The delivery system must be enclosed such as a pipe.
- 4c. Describe the number, type and total capacity of troughs or tanks in terms of gallons of water.
- 4d. The diversion and conveyance system is required to have either an automatic shutoff or flow control works or shall return unused water to the source through an enclosed delivery system. Describe the proposed system.
- 4e. The diversion system must be designed and constructed to allow the rate of diversion to be measured. Describe the system to be constructed.

5. Describe the place of use where the troughs or tanks are to be located within the 40-acre tract and/or U.S. Government Lot of the Public Land Survey System.
6. Show the priority of use which is represented by the first date that water historically was used for instream livestock watering, or by the date of priority shown on a permit, license, claim to a water right or decree for the instream stockwater use.
7. Show the maximum instantaneous rate of diversion of water from the source in cubic feet per second ("cfs"). The rate of diversion cannot exceed the amount established under the instream stockwater use and is limited to a volume of 13,000 gallons per day. Note: 0.02 cfs equals about 9 gallons per minute ("gpm") and 0.02 cfs flowing continuously for 24 hours will provide a volume of 13,000 gallons.
8. Show the beginning date and ending date each year within which stock water is used.
9. Describe who owns the property at the alternative point of diversion and place of use.
10. Describe when the diversion works and enclosed delivery system will be constructed
11. Use this space to further describe any item on the notice or to provide other pertinent information.

General Information:

- The provisions of section 42-113, Idaho Code, i.e. for diverting water out of a surface water source for livestock purposes, applies both to parties who have existing instream stockwater rights and to parties who intend to appropriate water for stockwater use from an alternative point of diversion in conjunction with an instream stockwater use as authorized in section 42-113, I.C.
- The right holder may not alter the bed or banks of the source of water, but may place an inlet conduit into the water source in a manner that does not require excavation or obstruction of the stream channel.
- The filing of a notice substitutes for the filing of a Claim to a Water Right pursuant to section 42-243, Idaho Code, and substitutes for the filing of a transfer pursuant to section 42-222, Idaho Code.
- A permittee in a federal grazing allotment must consent to a change in a right used for stockwater on the allotment, before out-of-stream diversion of water is authorized pursuant to section 42-113, Idaho Code.